

1895-067 Chancery Causes: C. C. Poteet vs. W. H. Rhea  
Lee Co.

CA-Debt  
T-Property



To The Hon. W. T. Miller Judge  
of the Circuit Court of Lee Co  
Virginia:

Your orator, <sup>C. C. Pattee</sup> who  
humbly complaining would  
respectfully represent that,  
heretofore at the June Term of  
this Hon. Court, he obtained a  
Judgement against one Jesse  
Anderson, in an action of  
unlawful Entry and detainer  
for a certain bonafide of  
land in his action fully de-  
scribed; and upon that Judge-  
ment a writ of possession  
was awarded and went into  
the hands of Evan Blalock D.S.  
for W. P. Weston Sheriff of said  
County, and was by him  
fully executed by delivering  
the possession thereof to your  
orator, who to avoid any  
further complications, enclosed  
the cleared part thereof by a  
wire, put up along the line so  
delivered to him. While said  
suit was pending and before  
the trial thereof, the said An-  
derson, as it now turns out  
had rented a portion of the  
land in dispute to one W. H.  
Rhea, who at the time of said



trial lived in a small house also situated upon said land and had, rented most of the disputed land to cultivate, and had then a growing Corn Crop thereon.

When the Sheriff came to deliver said possession said Rhea besought your orator not turn him and his family out of doors and after taking advice your orator agreed if he would give said land and premises and turn it over to your orator, and relinquish any claim thereto, then your orator would for a very small sum, re-rent him said house to live in; but only by the month, and this was agreed too and your orator took, under the said Sheriff, full & complete possession of all of said land and said house, and then in compliance with his promise rented the house only to said Rhea by the month. It will be observed that at the time possession was so delivered to him, the Corn Crop cultivated & raised by said Rhea was then & still is upon said land. Your orator claimed the Corn as being upon his land thus recovered, and said Rhea tried to



have his part of the crop given  
to him this your orator refused &  
required the same to be delivered  
to him, and said Rhea with full  
knowledge of your orator's claim  
right gave it up and your  
orator has ever since <sup>been</sup> and still  
is in possession thereof; But in  
the last few days, said Rhea has  
gone into said field against your  
orator's will, and against his  
express and positive demands and  
is cutting & using and threatens  
to cut & use  $\frac{2}{3}$  of said crop, under  
the pretended right that under  
his contract with Anderson he  
has the legal right to do so, and  
he threatens to continue his use of  
the said two thirds until he has  
consumed the same. offering to  
pay your orator the rest, one third.

This use of his property he has  
no means to prevent, unless by  
a breach of the peace. The said  
W. H. Rhea is insolvent, and a  
judgment at law would be  
unavailing and unfruitful, and  
if he continues to use said corn  
your orator will suffer irrepa-  
rable injury amounting to the  
whole  $\frac{2}{3}$  of said crop 100, or  
perhaps 125 bushels of corn.



Your orator is advised that only the restraining power of a Court of equity can stay & prevent this willful trespass and destruction of his Corn.

He is advised that the growing Crop followed the judgment and recovery of his land and that said Rhea if he has any remedy it is only against the man from whom he took unlawful possession of your orator's property, and he can not now complain of suffering from his own wrongful act.

At all event, your orator is advised the whole of said Crop so turned over to him by said Sheriff is his rightful property and is in peril of loss by the unlawful act of said Rhea.

To enjoin him the said W. H. Rhea from cutting removing using selling or consuming said Corn is the object of this Bill and on a final hearing to have him perpetually enjoined from the use thereof.

The premises considered therefore your orator prays that W. H. Rhea be enjoined and inhibited from cutting using removing or in



any way taking charge of or interfering with said Corn until the future order of this Court on a hearing that this injunction be perpetuated and made final And for all other further and general relief may supra issue &c.

D. C. Sewell

Virginia Lee County & wit:

This day C. C. Poter personal appeared before me and made oath that the facts stated in the foregoing Bill do for as made upon his own knowledge are true or so far as made upon information derived from others he believes them to be true.

Aug. 29th 1895.

D. C. Sewell Notary  
Public for Lee Co. Va.



1895-2nd Oct Rules  
Dismissed agreed.  
Also costs  
C 4.48  
S 50,  
\$4.98

Le. Le. Potest

vs Bill Chy

W. H. Rhea

Injunction granted  
pursuant to the  
prayer of the Bill,  
enjoining and inhib-  
iting the defendant  
W. H. Rhea his attys or  
agents from selling  
using cutting or de-  
muring the <sup>copy</sup> men-  
tioned in the Bill until  
the future order of this  
Court. But this injunction  
not to become effect-  
ive until the plff shall  
execute bond before the  
Clerk of this Court in  
a penalty of \$50 & with  
good security conditioned  
according to law of 1875

N L Miller  
To the Clerk of the  
Circuit Court of  
Cal Co.



Virginia:

To the Honorable W.T. Miller, Judge of the Circuit court of Lee county,

The demurrer and answer of W.H. Rhea to a bill exhibited against him in this in this Honorable court by C.C. Poteet, enjoining your respondent from removing certain corn in the bill mentioned:

Demurring, your respondent says that the said bill is not sufficient in law and should be dismissed and the said injunction dissolved, because your respondent is no where made a party to the said bill, and is no where called upon to answer the same, although he has been served with process to answer a bill by C.C. Poteet, plaintiff, &c.; and because the record of the suit between Jesse Anderson and the said C.C. Poteet mentioned in the bill, is no where made a part of the said bill.

But should your Honor be of the opinion that he is a party to the said bill, then he answers and says:

He has been informed that there was a litigation of some sort between his land lord, Jesse Anderson, and the said C.C. Poteet, and he is also informed that there was a judgment rendered at the June term of this Honorable court in the said cause, but he does not admit any of these allegations, of the bill, and he calls upon the complainant for strict proof thereof. He is also informed that the aforesaid action ~~against the said~~ between the said Anderson and Poteet covered a tract of land which he was using, occupying and cultivating as tenant of the said Anderson. But he absolutely denies the allegation of the bill that he went into possession of the said land during the pendency of the said litigation. But your respondent here alleges that for some time he had been the tenant from year to year on the same tract of land, on which was situated a house in which he lived, and he alleges that he had occupied the garden, cornfields and other lands during the same period of time. Your respondent alleges that he was in possession of the land on which this corn here sought to be enjoined grew, as a tenant for the year of 1894, and that he had pitched the same along with his other crops for that year, and that he was still in the occupancy of the same when this suit mentioned in the bill was



instituted; and he further alleges that about two months prior to the institution of the said suit, which institution <sup>was</sup> on the following day, to wit: on the 23<sup>rd</sup> day of October, 1894, he had rented of the said Anderson for the year of 1895; and therefore he says that he has <sup>of the said premises</sup> been in the possession continuously for several years, and unquestionably at the institution of the suit aforesaid.

As to the allegation in the said bill that he consented to deliver possession to the said Poteet, the said Deputy Sheriff, or to any one for either or both, at the time that the said deputy sheriff came to the premises aforesaid and claimed to have the legal right to dispossess your respondent: in answer to which your respondent would say, that he absolutely forbade the said officer or any one for him to enter the said premises, or to do any act unauthorized by law. The said deputy sheriff, at the time aforesaid, declared that he had the authority to unhouse your respondent, and did proceed to throw a few of his goods out into the road, but there was one room which was not opened by the said sheriff or any one for him, in which the goods and chattels of your respondent were left untouched and he in the undisturbed possession. Your respondent did tell the said officer that if the authority under which he was acting was correct and lawful, that your respondent had no fight to make against the law, that he was a law abiding man and did not want any trouble; but the allegation or insinuation that that he ever waived his legal rights and recognized the said Poteet as the true and lawfull possessor of the said house or corn field, <sup>or corn</sup> is without foundation. So far as your respondent knows or believes this was the only attempt to deliver the possession of the said premises, corn field with the corn thereon, or any thing else, to the said Poteet. That the sheriff, as alleged in the bill, cut or divided off the leased premises with a wire or any thing else, is here alleged to be untrue,

Your respondent here alleges that all action taken against him <sup>Y</sup> under or by virtue of the writ of possession, the judgment, or any of the proceedings in the action mentioned in the bill, was illegal and void, because he is advised that, being in possession of the premises, for which suit was instituted, he should have been made a party, which was not done.



3.

he again alleges that at no time did he ever agree to surrender possession, or recognize C.C. Poteet as the one under whom he held; insisting on this statement as true, yet he desires to allege that if he ever did or said any thing that could be in any wise so construed, that the same was done or said under duress, and by the deception of the deputy sheriff mentioned in the bill, the said C.C. Poteet ~~and~~ those with the aforesaid officer, at the time of their unlawfully attempted dispossession of your respondent of the premises here in question, and the corn here sought to be enjoined, growing thereon.

Your respondent further alleges that the said C.C. Poteet, the complainant, before and at the time of the institution of the action of unlawful entry and detainer, mentioned in the bill, against the said Anderson, knew that your respondent was in the possession of the house, corn fields and growing crops, and <sup>on which</sup> the corn here sought to be enjoined, <sup>afterward grew</sup> and that he was in such possession as the tenant of the said Jesse Anderson.

And now having fully answered, he prays to be hence dismissed with his reasonable costs in this behalf expended, &c.

W. V. Rhea.

By  
O. B. Beardship & Ewing,  
his counsel.

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W. H. Rhea

ads. } Ans -

C. C. Pollett.

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On Steamship Company P. B.

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Filed October the 9th 1878  
J. B. Manning  
Clerk



The Commonwealth of Virginia

To the Sheriff of Lee County Greeting;  
We Command you that Summon Jesse  
Anderson, if he be found within ~~your~~ your  
bailiwick, to appear before the Judge of our  
circuit Court for our said County, at the  
Court House thereof, on the 1<sup>st</sup> day of the next  
term, to answer C. C. Poteet of a complaint  
that the said Jesse Anderson ~~is~~ in the  
possession of, and unlawfully withholds  
from the said C. C. Poteet, ~~a~~ certain premises  
lying and being in the said County and describ-  
ed as follows to wit: Beginning at a down  
Hickory in a hollow on a line of C. C.  
Poteet's 200 acre tract thence S 40° W 73 poles to  
a poplar stump; thence S 17° E 20 poles to a  
white oak maple & ash on the bank of the  
west fork of Blackwater Creek. thence with  
the meanders of said Creek southwardly 56  
poles to where the said line of the said 200  
acre survey crosses said Creek and a 30  
acre survey of said Poteet and thence north-  
wardly, with said line of said 200 acre  
survey to the fence put up by Jesse Ander-  
son and thence <sup>with</sup> the same (said fence)  
so as to include the same as it mean-  
ders on Poteet's 30 acre survey around to  
to said line of said 200 acre survey



at the point where the line of the 30  
acre Survey crosses said line of said 200  
acre Survey, and thence with said line  
of said 200 acre Survey N 2° W 31 poles  
to the beginning.

And have then there this writ,

Witness A.B. Munsey, Clerk of our  
said court at the courthouse the 23<sup>d</sup>  
day of October 1894, And in the 119<sup>th</sup> year  
of the Commonwealth

A.B. Munsey Clerk

to Potteat

unlawful entreat.

Jesse Anderson

To 1st day of Nov 7

Exceeded by delivering  
the within office copy  
to Jesse Anderson this

Oct 29 1894

W.P. Washington, J.D. 11  
for C.C. County

June Term 1895  
Judgt. See order  
Book Page 452

Deffo costs  
recovered \$43.07

Deffo costs  
\$40.16

We the Court  
will then the  
Plaintiff the land  
abandon the  
recovery of the  
property.



This agreement made this 17th day of October 1895, by and between C. C. Pateet & W. H. Rhed, witnesseth that the said parties have settled the two suits between them, one in chancery pending in the Circuit Court of Lee County Va, and the other in Unlawful Entry & Detainer appealed from a Justice to the County Court of said County, by the said Pateet paying to said Rhed Thirteen dollars & fifty cents for his corn crop &c, after said Rhed settling said Pateets account against him for pasture &c, and thus settling all matters of account &c between them, and said suits to be at once dismissed and each party to pay his own costs. And the said Rhed is to surrender possession of the premises where he now lives, in controversy, to said Pateet on or by the 25th day of October 1895, given under our hands.

C. C. Pateet  
W. H. Rhed

Witness.

S. C. Sewell  
James W Orr



W. H. Rhea

+ } agreement.

C. C. Poter

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C. C. Poter,

TAKE NOTICE. That I on the 17 day of

October, 1895, at the Law office of Orn,  
Blankenship & Erving, in Jonesville, Lee County,  
Virginia, between the hours of 8 A.M. and 6 P.M.,  
will proceed to take the deposition of Jessie Anderson and others

which, when taken, I intended to be read as evidence on my behalf in a certain suit in Chancery  
now pending in the Circuit Court of Lee County, State of Virginia, in which  
you are \_\_\_\_\_ plaintiff and  
I am \_\_\_\_\_ defendant.

And if from any cause the same be not commenced, or if commenced, be not concluded on that day, the  
taking thereof will be adjourned from time to time, and from place to place, until completed.

October 11, 1895.

Very Respectfully,

W. H. Pheas  
By Counsel.



Virginia,  
Lee county, to wit:

This day Thos. Long personally appeared before  
me, S. V. F. Richmond, Clerk of county court of Lee  
Co., Va., & made oath that he delivered a true  
copy of the within to G. L. Poter on Oct. 14,  
1895, he being in said county, given under  
my hand, this Oct. 17, 1895.

J. V. F. Richmond.  
Clerk

G. L. Poter  
J. J. Poter  
J. H. Mear



The Commonwealth of Virginia,

To the Sheriff of the County of Lee---Greeting:

WE COMMAND YOU, That you summon

*W. H. Rhea*

to appear at the Clerk's Office of the Circuit Court of the County of Lee, at the rules to be held  
for the said Court on the *3rd* Monday in *September*, 189*5*, to answer a  
bill in Chancery, exhibited against *him* in our said court by

*to to Poter*

And have then there this writ. Witness, A. B. MUNSEY, Clerk of our said Court, at the court-  
house, the *6th* day of *September*, 189*5*, and in the  
1*20th* year of the Commonwealth.

*A B Munsey* Clerk.



Bond having been given before me the injunction heretofore granted by the Judge of the Circuit Court of this becoming effective; Injoining and inhibiting the said W H Rhea from his attorneys or agents from selling or removing the corn mentioned in the bill until the future order of this court; The corn mentioned in said bill is the corn now standing on a piece of land lately recovered in an action of unlawful entry and detainer in the Circuit Court of Lee County in a suit by L B Poteet vs Jesse Anderson and which was cultivated by the said W H Rhea on said land this Sept 6<sup>th</sup> 1895

W B Munsey Clerk

L B Poteet

SUPPENA

IN CHANCERY.

vs. W H Rhea

Prudence & Sewell & Co.

To 2<sup>nd</sup> Sept Rules,

Circuit Court.

Executed by delivering  
a copy of the within

Summons to W H Rhea  
Sept 7<sup>th</sup> 1895

Edw on Blades & D S  
for W P Weston Secy